



**In the United States Patent and Trademark Office**

In re Application of  
Johnson

Serial No, 10/061,378

For: Non-lethal Gas Apparatus to thwart  
Hijacker

Group Art Unit: 3761

Examiner: Joseph Frances Weiss, Jr.

29 September 2003

Commissioner of Patents  
The United Patent Office  
P.O. Box 1450  
Alexandria, VA 2213-1454

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OCT 10 2003  
TECHNOLOGY CENTER R3700

Dear Sir:

This is a petition for a one month extension of time. Enclosed is a check for \$55.00.

Concerning the above mentioned application: Applicant thanks the examiner for his comments. Rereading the application has revealed less good grammar and certain choices of words. I have enclosed an edited and clean version of the text and claims. There is no new matter. Applicant notes Rodson 6,499,693

Please withdraw claim 14:

Concerning objection 2. and 3. The following is from the Summery of the invention Lines 4-9.

"The reservoir has a means to vaporize said volatile somnolent substance and the device release of the volatile somnolent substance into the craft's ventilating duct at a level to reduce sleepiness in the passengers and hijackers. The parts of the devices that can be so isolated is physically in the cargo space of the aircraft and thus nonassessable to unauthorized persons. "

I have added to claim 1 line 3: for a device in an aircraft with a ventilating system. This

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is not new matter.

Concerning 7: Background concerning the obviousness of present application;

There are three important steps that are required to get a patent. The first of the steps is to recognize the problem. The European Patent Office requires that each patent describe the "problem to be solved." The second step is to muster the technology to solve the problem. This second step readily matures into the patent application. The third step, of course, is examination of the patent application by patent examiners.

The first step can be a serious problem. There is a distinct difference in the use of the intellect between seeing a problem and solving that problem. On a personal note, the patent agent preparing this office action has a number of issued and many pending patents.

In the case of one issued patent, 4,654,325, one invention with a provisional application, and a third patent application which is almost ready to be submitted, the agent-inventor Selenke solved these three problems almost simultaneously upon hearing the problem. Had the problems not been presented I would not have solved them.

This is to state that the problem to be solved can be quite important in the context of a patent application.

### **September 11, 2001 changed much of the world.**

Prior to 911, the world did recognize the use of kamikaze tactics. Towards the end of World War II, many Japanese pilots flew their aircraft into American warships. However, this was clearly in the context of war. Note, during war many things are done that are unthinkable in peacetime.

Prior to 911 the use of fully loaded passenger aircraft as kamikaze craft was unthinkable in the civilized world. Prior to 911, if Mr. Johnson that approached me with the present invention I would have discouraged him and told him that his solution was far too drastic considering the then situation in hijacking. Note the filing date is 02/01/2002. Given the time it takes to write a patent, have the art work completed and so forth is quite clear that Mr. Johnson conceived of this invention in the immediate days after 911.

The actions of 911 were acts of war. Once the world was aware that the passenger aircraft could become a kamikaze aircraft, the rules had totally changed. Prior to 911 the thought of risking aircraft passenger's lives to stop the hijacking would have been unthinkable. After all, as mentioned in the application, prior to 911 hijacking was a risky and unpleasant event, but few people died. Risking passenger deaths after 911 to disrupt a hijacking became a possibility that was unthinkable prior to 911.

The problem solved by the present invention is as follows: How do you incapacitate hijackers were willing to sacrifice their lives to seize an aircraft? Potentially dangerous acts can be morally justified if a person's life is in clear and obvious danger.

Applicant acknowledges Lawrence 1,614,739. In the light of this invention we have withdrawn claim 14.

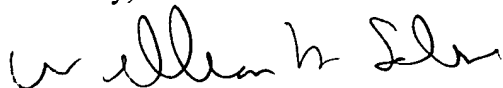
However, we maintain that solving any problems using the existing known technologies is well known and accepted by the patent law and the patent courts. After all, "There is nothing new under the sun." There are few issued patents that do not use the existing technology. We maintain that invention is patentable in the light of 911.

We believe these arguments stand as is.

However, we likewise maintain for the sake of the intellectual argument that old art, that is available for a long time and not used, is a powerful arguments against obviousness. Lawrence 1,614,739 has been available since 1927. Likewise hijacking as a hazard of modern passenger aircraft travel had been a problem for 30 years. If the known solution and the known problem were not recognized within 30 years, they were likely non-obvious.

I pray that the petition for the grant of Letters patent to Mr. Johnson be allowed..

Sincerely,



William M. Selenke Reg. 46,102

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Deposited in Free Class room  
29 Sept 03